

AMENDED IN ASSEMBLY JANUARY 25, 2010

AMENDED IN ASSEMBLY JANUARY 4, 2010

CALIFORNIA LEGISLATURE—2009–10 REGULAR SESSION

ASSEMBLY BILL

No. 674

Introduced by Assembly Member Salas

February 25, 2009

An act to amend Section 1170.9 of the Penal Code, relating to criminal procedure.

LEGISLATIVE COUNSEL'S DIGEST

AB 674, as amended, Salas. Criminal procedure: veterans.

Existing law provides that if a person is convicted of a criminal offense and alleges that he or she committed the offenses as a result of post-traumatic stress disorder, substance abuse, or psychological problems stemming from service in combat in the United States military, the court shall hold a hearing prior to sentencing to make a determination about the allegation. If the court finds that the defendant's crime was committed as a result of one of those factors related to serving in combat, and the court places the person on probation, existing law authorizes the court to place the person into a treatment program, as specified.

This bill would instead, if the defendant alleges that her or she committed the offense as a result of sexual trauma, traumatic brain injury, post-traumatic stress disorder, substance abuse, or mental health problems stemming from military service in the United States military, require the court to make a determination as to whether a defendant was, or currently is, a member of the United States military, and would authorize the court to request through the use of existing resources an assessment of whether the defendant may be suffering from those

disorders. The bill would eliminate the requirement that the offense be committed as a result of problems stemming from service in a combat theater.

The bill would eliminate the requirement that an order be made referring the defendant to a county mental health agency only if the agency agreed to accept responsibility for treatment of the defendant. ~~The bill would also eliminate a provision granting sentence credits for defendants granted probation and committed to a residential treatment program.~~

The bill would require the court and the assigned treatment program to collaborate with the Department of Veterans Affairs and the United States Veterans Administration to maximize benefits and services.

By imposing additional burdens on local government entities, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 1170.9 of the Penal Code is amended to
2 read:
3 1170.9. (a) In the case of any person convicted of a criminal
4 offense who could otherwise be sentenced to county jail or state
5 prison and who alleges that he or she committed the offense as a
6 result of sexual trauma, traumatic brain injury, post-traumatic stress
7 disorder, substance abuse, or mental health problems stemming
8 from service in the United States military, the court shall, prior to
9 sentencing, make a determination as to whether the defendant was,
10 or currently is, a member of the United States military and may
11 request through the use of existing resources an assessment of
12 whether the defendant may be suffering from sexual trauma,
13 traumatic brain injury, post-traumatic stress disorder, substance
14 abuse, or mental health problems as a result of that service.

1 (b) If the court concludes that a defendant convicted of a
2 criminal offense is a person described in subdivision (a), and if
3 the defendant is otherwise eligible for probation and the court
4 places the defendant on probation, the court may order the
5 defendant into a local, state, federal, *or* private nonprofit treatment
6 program, ~~or a veteran's court~~ for a period not to exceed that which
7 the defendant would have served in state prison or county jail,
8 provided the defendant agrees to participate in the program and
9 the court determines that an appropriate treatment program exists.

10 (c) If a referral is made to the county mental health authority,
11 the county shall be obligated to provide mental health treatment
12 services only to the extent that resources are available for that
13 purpose, as described in paragraph (5) of subdivision (b) of Section
14 5600.3 of the Welfare and Institutions Code. If mental health
15 treatment services are ordered by the court, the county mental
16 health agency shall coordinate appropriate referral of the defendant
17 to the county veterans service officer, as described in paragraph
18 (5) of subdivision (b) of Section 5600.3 of the Welfare and
19 Institutions Code. The county mental health agency shall not be
20 responsible for providing services outside its traditional scope of
21 services.

22 (d) When determining the "needs of the defendant," for purposes
23 of Section 1202.7, the court shall consider the fact that the
24 defendant is a person described in subdivision (a) in assessing
25 whether the defendant should be placed on probation and ordered
26 into a ~~federal~~ *federal* or community-based treatment service
27 program with a demonstrated history of specializing in the
28 treatment of mental health problems, including substance abuse,
29 post-traumatic stress disorder, traumatic brain injury, military
30 sexual trauma, and other related mental health problems.

31 *(e) A defendant granted probation under this section and*
32 *committed to a residential treatment program shall earn sentence*
33 *credits for the actual time the defendant serves in residential*
34 *treatment.*

35 ~~(e)~~

36 (f) The court, in making an order under this section to commit
37 a defendant to an established treatment program, shall give
38 preference to a treatment program that has a history of successfully
39 treating veterans who suffer from sexual trauma, traumatic brain
40 injury, post-traumatic stress disorder, substance abuse, or mental

1 health problems as a result of that service, including, but not limited
2 to, programs operated by the United States Department of Defense
3 or the United States Veterans Administration.

4 ~~(f)~~

5 (g) The court and the assigned treatment program shall
6 collaborate with the Department of Veterans Affairs and the United
7 States Veterans Administration to maximize benefits and services
8 provided to the veteran.

9 SEC. 2. If the Commission on State Mandates determines that
10 this act contains costs mandated by the state, reimbursement to
11 local agencies and school districts for those costs shall be made
12 pursuant to Part 7 (commencing with Section 17500) of Division
13 4 of Title 2 of the Government Code.

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